

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DAVID BURGOS, Plaintiff, v. CITY OF PHILADELPHIA, <i>et al.</i>, Defendants.	: : : : : : : :	CIVIL ACTION NO. 13-4894
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ORDER

AND NOW, this 6th day of September 2017, upon consideration of the pending motions and responses, and for the reasons explained in the accompanying memorandum opinion, it is hereby **ORDERED** as follows:

1. The Motion to Dismiss of Defendants the City of Philadelphia, John Delaney, Louis Giorla, and Michele Farrell (Doc. No. 46) is **DISMISSED AS MOOT**.
2. Plaintiff's Motion to File the Third Amended Complaint (Doc. No. 53) is **GRANTED IN PART AND DENIED IN PART AS FOLLOWS**:
 - a. The Clerk shall file the Third Amended Complaint (Doc. No. 53-1).
 - b. Plaintiff may proceed with the triple-celling claim under the Due Process Clause of the Fourteenth Amendment against Defendants Delaney, Farrell, Giorla, and the City of Philadelphia.
 - c. Plaintiff may proceed with the inadequate medical care claim under the Due Process Clause of the Fourteenth Amendment against Defendants Delaney and Farrell. This claim is **DISMISSED** against all other non-Corizon Defendants.
 - d. Plaintiff may proceed with the First Amendment retaliation claim against Delaney and Farrell. This claim is **DISMISSED** against all other non-Corizon Defendants.
 - e. Plaintiff may proceed with the conversion claim against Delaney. This claim is **DISMISSED** against all other non-Corizon Defendants.
 - f. All claims against Defendant Michael Nutter are **DISMISSED WITH PREJUDICE**.
 - g. All remaining Defendants except Corizon shall file an **ANSWER** to the Third Amended Complaint within **14 days** of the date of this Order. Corizon shall file any motion

to dismiss no later than **10 days** from the date of this Order, as per the Court's April 11, 2017 Order (Doc. No. 61).

3. Plaintiff's "Motion for Appointment of Special Counsel" (Doc. No. 56) is **GRANTED** insofar as the case will be referred to the Prisoner Civil Rights Panel for possible appointment of counsel. The Clerk is **DIRECTED** to refer this case to the Prisoner Civil Rights Panel for the Eastern District of Pennsylvania for possible appointment of counsel.¹ In the meantime, this case shall **REMAIN IN ACTIVE STATUS**.

4. Plaintiff's "Omnibus Response and Clarification Motion" (Doc. No. 57) is **DISMISSED AS MOOT**.

5. Plaintiff's Discovery Motion (Doc. No. 62) is **DENIED WITHOUT PREJUDICE**. Defendants shall respond to Plaintiff's discovery requests in accordance with the Federal Rules of Civil Procedure.

6. Defendants' Motion to Depose (Doc. No. 67) is **GRANTED**. Counsel for Defendants shall be permitted to depose Plaintiff, an incarcerated person, at a time, date and manner convenient to the parties and the administration at the Pennsylvania Department of Corrections System.

It is so **ORDERED**.

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUFÉ, J.

¹ Plaintiff has no legal right to an attorney in this civil action, and the Court is not appointing an attorney to represent him, but only making his case available to volunteer attorneys who may choose to represent Plaintiff.